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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	CASE NO. CR 18-533 RS
)	
Plaintiff,)	SECOND STIPULATED JOINT APPLICATION
)	OF THE UNITED STATES AND DEFENDANT
v.)	EDVIN OVASAPYAN FOR A SECOND
)	PRELIMINARY ORDER OF FOREITURE
EDVIN OVASAPYAN,)	
)	
Defendant.)	
)	
)	
)	

The United States of America, by and through the undersigned Assistant United States Attorneys, and Edvin Ovasapyan and his attorney Brian J. Stretch, respectfully submit this Second Stipulated Joint Application for a Preliminary Order of Forfeiture. The property subject to this proposed Second Preliminary Order of Forfeiture is as follows (hereinafter “the subject property”):

a. 8654 Washington Blvd., Culver City, CA 90232, parcel identification number 4312-024-001.

This subject property was not included in the government’s stipulated application for the first

Preliminary Order of Forfeiture, which order this Court signed. *See* Dkts. 113, 114.¹ That stipulated application and order did not include the above real property because of its anticipated imminent sale, the proceeds of which would have been forfeitable to the government and used to satisfy the lienholder. That sale did not develop, and the government is now seeking the forfeiture of this real property, by stipulation. However, if a timely private sale does develop, the parties may seek an amendment to this order from the Court to permit the sale.

Accordingly, the parties agree herein to the issuance of the accompanying Second Stipulated Preliminary Order of Forfeiture.

Factual Background

On September 5, 2019, defendant Edvin Ovasapyan was charged by Superseding Indictment with violations of Title 18, United States Code, Sections 1349 (Conspiracy to Commit Wire Fraud); Title 18, United States Code, Section 1956(h) (Conspiracy to Commit Laundering of Monetary Instruments); and Title 18, United States Code, Section 371 (Conspiracy to Engage in the Unlawful Wholesale Distribution of Drugs). The Indictment also sought criminal forfeiture pursuant to Title 18, United States Code, Sections 981(a) and 982(a), as well as Title 28, United States Code, Section 2461.

The defendant entered pleas of guilty before this Court and is awaiting sentencing.

In addition to statements in the sealed plea agreement that agree to the forfeiture of the above property, the defendant Edvin Ovasapyan admits herein that the property referred to above as the subject property was purchased by him directly by using an LLC entirely created and controlled by him and that acted on his behalf and at his sole direction, and without engaging in any corporate formalities, and further acted for the benefit of him solely and personally. The defendant hereby admits that the subject property was purchased with proceeds of the unlawful activity to which he has now pleaded guilty. The defendant further admits and agrees the subject property is thus forfeitable to the United States pursuant

¹ As noted in the first application (Dkts. 113 at 3, fn. 2), numerous assets are subject to forfeiture in this case, and the government intends to file at least one more application for another, third preliminary order of forfeiture as to those assets. Several assets have already been sold privately and the proceeds of those sales were forfeited in the first Preliminary Order of Forfeiture. Other assets are anticipated to be sold, and those proceeds will be the subject of a subsequent forfeiture order application. As the plea agreement reflects, a number of the forfeitable assets are unique and have significant value.

1 to Title 18, United States Code, Sections 981(a) and 982(a) and Title 28, United States Code, Section
2 2461(c). The defendant Edvin Ovasapyan agrees and consents to the entry of the proposed Second
3 Preliminary Order of Forfeiture.

4 **Basis for a Preliminary Order of Forfeiture**

5 Rule 32.2 of the Federal Rules of Criminal Procedure addresses criminal forfeiture procedure
6 and states that a preliminary order of forfeiture may issue before sentencing, and it can become final
7 before sentencing if the defendant consents per Rule 32.2(b)(1)(A) and (b)(4)(A), as outlined below.

8 Rule 32.2(b)(1)(A) provides that as soon as practicable after entering a guilty verdict or
9 accepting a plea of guilty on any count in an indictment with regard to which criminal forfeiture is
10 sought, a court shall determine what property is subject to forfeiture under the applicable statute. If
11 forfeiture of specific property is sought, the court shall determine whether the government has
12 established the requisite nexus between the property and the offense.

13 Rule 32.2(b)(1)(B) provides that the court's determination may be based on evidence already in
14 the record, "including any written plea agreement[.]" Forfeiture may be agreed to by the parties, as
15 here, and the court may determine the nexus of the specific property to the offense based on evidence or
16 information before the court or presented by the parties, including any agreement of the parties.

17 Rule 32.2(b)(2) states that if the court finds that property is subject to forfeiture, it shall promptly
18 enter a preliminary order of forfeiture directing the forfeiture of the specific property without regard to
19 any third party's interest in all or part of it. As to the interest of third parties, the rule provides that,
20 "Determining whether a third party has such an interest must be deferred until any third party files a
21 claim in the subsequent ancillary proceeding under Rule 32.2(c)."

22 Rule 32.2(b)(3) provides that the entry of a preliminary order of forfeiture authorizes the
23 Attorney General or a designee to seize the specific property subject to forfeiture; to conduct any
24 discovery the court considers proper in identifying, locating, or disposing of the property; and to
25 commence proceedings that comply with any statute governing third-party rights. A court may include
26 in the order of forfeiture any conditions reasonably necessary to preserve the property's value
27 pending any appeal.
28

1 Rule 32.2(b)(4)(A) states that at sentencing or “at any time before sentencing if the defendant
2 consents” the preliminary forfeiture order “becomes final as to the defendant.” The ancillary proceeding
3 determining third party interests begins after a preliminary order of forfeiture terminating the
4 defendant’s interest is entered, and the final order of forfeiture settles the title after any ancillary
5 proceeding relating to third party claims.

6 Pursuant to the defendant’s admissions, including in this document, the parties agree that there
7 exists a requisite nexus between the subject property and the offenses of conviction. Accordingly, the
8 subject property is subject to forfeiture to the United States pursuant to Title 18, United States Code,
9 Sections 981(a) and 982(a), Title 28, United States Code, Section 2461(c), and Rule 32.2 of the Federal
10 Rules of Criminal Procedure.

11 **Procedure Following Issuance of the Preliminary Order of Forfeiture**

12 Upon the issuance of a the proposed Preliminary Order of Forfeiture and pursuant to Title 21,
13 United States Code, Section 853(n), and Rule G(4)(a)(iv) of the Supplemental Rules for admiralty or
14 Maritime Claims and Asset Forfeiture Actions, the United States will publish for at least 30 days on
15 www.forfeiture.gov, a government website, notice of this Order, notice of its intent to dispose of the
16 property in such manner as the Attorney General may direct, and notice that any person, other than the
17 defendant, having or claiming a legal interest in the property must file a petition with the Court and
18 serve a copy on Gregg W. Lowder, Assistant United States Attorney, 450 Golden Gate Avenue, Box
19 36055, San Francisco, CA 94102, within 30 days of the final publication of notice or of receipt of actual
20 notice, whichever is earlier.

21 This notice shall state that the petition shall be for a hearing to adjudicate the validity of the
22 petitioner's alleged interest in the property, shall be signed by the petitioner under penalty of perjury,
23 shall set forth the nature and extent of the petitioner's right, title or interest in the forfeited property, and
24 any additional facts supporting the petitioner's claim and the relief sought. The United States may also,
25 to the extent practicable, provide direct written notice to any person known to have alleged an interest in
26 the property that is the subject of the Preliminary Order of Forfeiture, as a substitute for published notice
27 as to those persons so notified.

Request for Preliminary Order of Forfeiture

The parties therefore stipulate to and request this Court enter the accompanying proposed Preliminary Order of Forfeiture, which provides for the following:

- a. forfeits the subject property to the United States;
- b. authorizes the United States, through its appropriate agency, to seize the forfeited property forthwith;
- c. authorizes the government to conduct discovery in order to identify, locate, or dispose of property subject to forfeiture in accordance with Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure;
- d. directs the United States to publish on a government website for at least 30 days, notice of this Order, notice of the government's intent to dispose of the property in such manner as the Attorney General may direct and provide notice that any person, other than the defendant, having or claiming a legal interest in the subject property must file a petition with the Court and serve a copy on government counsel within 30 days of the final publication of notice or of receipt of actual notice, whichever is earlier; and
- e. the Court retains jurisdiction to enforce the Preliminary Order of Forfeiture, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).

THE PARTIES HEREBY STIPULATE TO THIS APPLICATION AND TO THE ADMISSIONS THEREIN.

Dated: 9/2/2020

DAVID L. ANDERSON
United States Attorney

_____/S/_____
GREGG W. LOWDER
ANDREW F. DAWSON
Assistant United States Attorneys

Dated: 9/2/2020

_____/S/_____
EDVIN OVASAPYAN
Defendant

Dated: 9/2/2020

_____/S/_____
BRIAN J. STRETCH
Attorney for Edvin Ovasapyan